

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1200

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-11-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. Except as provided by subsection (b), these reports shall be prepared, verified, and filed with the state examiner ~~within not~~ **later than** thirty (30) days after the close of each fiscal year.

(b) The following shall prepare, verify, and file the reports required under subsection (a) not later than sixty (60) days after the ~~end~~ **close** of each **fiscal** year:

- (1) A municipal government.
- (2) A public library.
- (3) **A district (as defined in IC 13-11-2-58(a)) that owns a landfill (as defined in IC 13-11-2-116(c)).**

SECTION 2. IC 13-19-3-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **Sec. 9. (a) This section does not apply to an expansion of a solid waste landfill:**

- (1) that accepts only construction\demolition waste; and**
- (2) for which a construction\demolition waste permit was issued before January 1, 2005.**



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(b) A solid waste landfill that accepts only construction\demolition waste shall comply with setback requirements concerning public schools established by the board under 329 IAC 10-16-11 for municipal solid waste landfills.

SECTION 3. IC 13-21-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as provided in subsections (b) through ~~(d)~~; **(e)**, the board of a county district consists of the following members:

(1) Two ~~(2)~~ members appointed by the county executive from the membership of the county executive.

(2) One ~~(1)~~ member appointed by the county fiscal body from the membership of the fiscal body.

(3) One ~~(1)~~ member:

(A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or

(B) appointed from the membership of the legislative body of a town if the town is the municipality having the largest population in the county.

(4) One ~~(1)~~ member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(5) One ~~(1)~~ member:

(A) who is the executive of a city in the county that is not the municipality having the largest population in the county; or

(B) who is a member of the legislative body of a town that is not the municipality having the largest population in the county;

and who is appointed by the executive of that county to represent the municipalities in the county other than the municipality having the largest population.

(6) One ~~(1)~~ additional member appointed by the county executive from the membership of the county executive.

(b) If a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is designated as a county district, the executives of the three (3) cities in the county having the largest populations each serve as a member of the board or may appoint a member of the legislative body of their city to serve as a member of the board. If a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) is designated as a county district, the executives of the two (2) cities in the county having the largest populations each serve as a member of the board. If a county having a population of

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more than two hundred thousand (200,000) but less than three hundred thousand (300,000) is designated as a county district, the board of that county district must include the following:

(1) One (1) member of the legislative body of the city having the second largest population in the county, appointed by the president of the city legislative body.

(2) One (1) member of the legislative body of a town located in the county, appointed by the judge of the circuit court in the county.

(c) If a county having a consolidated city is designated a county district, the board of public works established under IC 36-3-5-6 constitutes the board of the county district.

(d) If a county designated as a county district has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board of the district consists of the following members:

(1) One (1) member appointed by the county executive from the membership of the county executive.

(2) Two (2) members appointed from the county fiscal body appointed from the membership of the county fiscal body.

(3) The executive of each second or third class city or a member of the legislative body of their city appointed by the executive.

(4) One (1) member of the legislative body of each town appointed by the legislative body.

(5) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(6) If a local government unit in the county has an operating final disposal facility located within the unit's jurisdiction, one (1) member of the unit's board of public works appointed by the board of public works.

(e) This subsection applies only to a county that does not contain a city. If the county executive and the county fiscal body of a county designated as a county district agree, the board of the district shall consist of the following nine (9) or ten (10) members:

(1) The three (3) members of the county executive.

(2) Two (2) members of the county fiscal body, chosen by the county fiscal body.

(3) One (1) member of each of the town legislative bodies of the four (4) or five (5) towns in the county having the largest population, chosen by each town legislative body.

SECTION 4. IC 13-21-3-16 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) The requirements of this section:

(1) are in addition to the requirements set forth in IC 6-1.1-18.5-7(b); **and**

(2) **do not apply to a district that:**

(A) **owns a landfill;**

(B) **will use property tax revenue to:**

(i) **construct a new landfill cell; or**

(ii) **close a landfill cell;**

at the landfill; and

(C) **has received approval from the county fiscal body of the county in which the landfill is located to construct or close the landfill cell.**

(b) To be eligible to include within the district's budget for the following year tax revenue derived from the imposition of a property tax, the first year that a property tax will be imposed and any subsequent year in which the proposed tax levy will increase by five percent (5%) or more, a board must present identical resolutions to each of the county fiscal bodies within the district seeking approval for the use of property tax revenue within the district. The resolution must state the proposed property tax levy and the proposed use of the revenue. The resolution must be stated so that:

(1) a "yes" vote indicates approval of the levy and the proposed use of property tax revenue within the district; and

(2) a "no" vote indicates disapproval of the levy and the proposed use of property tax revenue within the district.

(c) For a resolution described in subsection (b) to be approved by the county fiscal body:

(1) the county fiscal body must record the vote taken on the resolution under subsection (b) before May 1 of the year in which the vote was taken; and

(2) the recorded vote must indicate approval of the use of property tax revenue within the district.

(d) If all of the county fiscal bodies within a district do not record the approval described in subsection (c) before May 1 of the year in which the vote under subsection (b) was taken, the board may not:

(1) impose; or

(2) include within the budget of the board;

a property tax for the year following the year in which the vote was taken.

(e) Notwithstanding subsection (d), after the first year a tax is imposed under this section, the resolution required by subsection (b)

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for a district that is located in more than two (2) counties need only be approved by a majority of the county fiscal bodies for the counties in which the district is located.

(f) A district may not issue bonds to be repaid, directly or indirectly, with money or property tax revenue of the district until a majority of the members of each of the county fiscal bodies within a district passes a resolution approving the bond issue.

SECTION 5. IC 13-26-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
Sec. 2. (a) Except as provided in subsection (b), the rates or charges for a sewage works may be determined based on the following:

- (1) A flat charge for each connection.
- (2) The amount of water used on the premises.
- (3) The number and size of water outlets on the premises.
- (4) The amount, strength, or character of sewage discharged into the sewers.
- (5) The size of sewer connections.
- (6) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.
- (7) A combination of these or other factors that the board determines is necessary to establish nondiscriminatory, just, and equitable rates or charges.

(b) ~~This subsection applies only to a district in which a campground brought a legal action after January 1, 2000, and before April 1, 2003, against a board concerning sewage service billed at a flat rate. If a campground is billed for sewage service at a flat rate under subsection (a), the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the sewers. for one (1) year. The highest meter reading for a calendar week for the campground during the year shall be used to determine the resident equivalent units for the campground.~~

If a campground elects to be billed by use of a meter:

- (1) the rate charged by a board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and**
- (2) the amount charged by a board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:**
 - (A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or**

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(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under subsection (a), for a calendar year beginning after December 31, 2004, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under this subsection subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

- (1) the installation of:**
 - (A) oversized pipe; or**
 - (B) any other unique equipment;**
- necessary to provide sewage service for the campground; and**
- (2) ~~excessive~~ concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.**

SECTION 6. IC 13-26-11-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2.1. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 2(b) or 2(c) of this chapter who disputes:

- (1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 2(b)(1) of this chapter;**
- (2) the number of resident equivalent units determined for the campground under section 2(c) of this chapter; or**
- (3) that any additional charges imposed on the campground under section 2(d) of this chapter are reasonable or nondiscriminatory.**

(c) If an owner or operator:

- (1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:**
 - (A) any grievance or complaint procedure prescribed by**

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the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

(1) the owner or operator of the campground; and

(2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for

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a review made under this section. The record must include:

- (1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and
- (2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The right of a campground owner or operator to request a review under this section is in addition to the right of the campground owner or operator to file a petition under section 15 of this chapter as a freeholder of the district.

(i) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 7. IC 14-33-16.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 16.5. Dissolution of Smaller District and Assumption of Operations, Obligations, and Assets by Larger District

Sec. 1. This chapter applies to any two (2) conservancy districts that:

- (1) are contiguous; and
- (2) share at least one (1) common purpose set forth in IC 14-33-1-1.

Sec. 2. As used in this chapter:

- (1) "freeholder" means an owner of real property, as reflected in the real property tax records of the county auditor;
- (2) "larger district" means, of the two (2) districts referred to in section 1 of this chapter, the one (1) that has the larger number of freeholders; and
- (3) "smaller district" means, of the two (2) districts referred to in section 1 of this chapter, the one (1) that has the smaller number of freeholders.

Sec. 3. (a) The freeholders of a smaller district may initiate dissolution proceedings under this chapter by filing a petition with the county auditor of the county in which most of the smaller district's area is located. The petition must be signed by at least the lesser of:

- (1) fifty (50); or
- (2) five percent (5%);

of the smaller district's freeholders.

(b) A petition under subsection (a) may be circulated and

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presented in separate parts. All the parts of the petition constitute a single petition.

(c) The petitioning freeholders must sign the petition, showing:

- (1) the name and address of each petitioner; and
- (2) the date of the signature.

(d) A petition must state that the petitioners desire an election on the question of whether:

- (1) the smaller district will dissolve and become part of the larger district; and
- (2) the larger district will assume the smaller district's operation, obligations, and assets.

(e) A person who presents a petition from the smaller district's freeholders under this section to the county auditor must verify and certify the signatures on the petition upon oath.

Sec. 4. (a) Not later than thirty (30) days after a petition is filed with the county auditor under section 3 of this chapter, the county auditor shall:

- (1) prepare and certify a list of freeholders of the smaller district;
- (2) make the list available for inspection by any person; and
- (3) determine and certify whether the petition:
 - (A) was signed by the number of freeholders required under section 3(a) of this chapter; and
 - (B) otherwise meets the requirements of this chapter.

(b) A deficiency in the list of the smaller district's freeholders or an omission of the name of a freeholder does not void the election or the election's outcome.

(c) If the county auditor determines that a petition filed under section 3 of this chapter meets the requirements of this chapter, the auditor shall, not later than forty (40) days after receiving the petition, forward a notice to the board of directors of the larger district by personal delivery or by certified mail. The notice must:

- (1) inform the larger district that a petition was filed under section 3 of this chapter by the freeholders of the smaller district; and
- (2) ask if the larger district is willing and able to assume the smaller district's operation, obligations, and assets if the smaller district's freeholders vote to dissolve the smaller district.

(d) Not later than thirty (30) days after receiving the notice from the county auditor under subsection (c), the board of directors of the larger district may pass a resolution stating that:

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(1) the larger district is willing and able to assume the smaller district's operation, obligations, and assets; and

(2) upon becoming part of the larger district, the freeholders of the smaller district will:

(A) become full and equal freeholders of the larger district; and

(B) pay the same special benefits taxes and user charges generally charged by the larger district.

(e) If the board of directors of the larger district passes a timely resolution under subsection (d):

(1) the board of directors of the larger district must forward a true and accurate copy of the resolution to the county auditor by personal delivery or by certified mail not later than ten (10) business days after the board passes the resolution; and

(2) the board of directors of the smaller district must hold a dissolution and assumption election of the smaller district's freeholders under this chapter.

(f) If the board of directors of the larger district:

(1) does not pass a timely resolution under subsection (d); or

(2) passes a timely resolution under subsection (d), but does not timely forward a copy of the resolution under subsection (e)(1);

the dissolution proceedings that began with the filing of a petition under section 3 of this chapter are ended.

Sec. 5. Not later than ten (10) days after the county auditor receives a resolution from the board of directors of the larger district under section 4 of this chapter, the county auditor shall, by personal delivery or by certified mail, notify the board of directors of the smaller district that the board of directors of the smaller district must hold the election referred to in section 4(e)(2) of this chapter.

Sec. 6. (a) Not later than ten (10) days after receipt of a notice under section 5 of this chapter, the board of directors of the smaller district shall fix the following:

(1) A convenient and suitable place for the smaller district's election.

(2) The date for the election that is at least sixty (60) days after the date on which the county auditor notifies the smaller district's board under section 5 of this chapter.

(b) The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. If the

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number of freeholders in the smaller district is too great for balloting at a single voting place while allowing each freeholder a reasonable time to cast a ballot, the board shall arrange for the number of voting places necessary to accommodate the freeholders eligible to vote.

(c) Notice of the date, time, place, and purpose of the election must be given for two (2) consecutive weeks in an English language newspaper of general circulation published in each county having land in the smaller district, with the last publication:

(1) not less than fifteen (15) days; and

(2) not more than thirty (30) days;

before the date of the election.

(d) The board of directors of the smaller district shall also cause individual notice of the election to be given to all the smaller district's freeholders by first class mail.

(e) The notice published under subsection (c) and the individual freeholder notice mailed under subsection (d) must be in the following form:

**Notice of a Dissolution and Assumption Election
to the Freeholders of the _____**

(insert smaller district) Conservancy District

1. You are a freeholder (i.e. a real property owner) of the _____ (insert smaller district) Conservancy District. As a freeholder, you are one of the owners of the _____ (insert smaller district) Conservancy District.

2. A legally required number of the freeholders of the _____ (insert smaller district) Conservancy District has filed a petition with the _____ (insert county name) County Auditor requesting that the _____ (insert smaller district) Conservancy District be dissolved, and that the operation, obligations, and assets of the _____ (insert smaller district) Conservancy District be assumed by the _____ (insert larger district) Conservancy District.

3. The _____ (insert larger district) Conservancy District is contiguous to, has the same purpose as, and has a greater number of freeholders than the _____ (insert smaller district) Conservancy District.

4. The Board of Directors of the _____ (insert larger district) Conservancy District has passed a resolution stating:

A. That the _____ (insert larger district) Conservancy District is willing to assume the operation, obligations, and assets of the _____ (insert smaller district) Conservancy District.

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district) Conservancy District; and

B. That upon becoming part of the _____ (insert larger district) Conservancy District, the freeholders of the _____ (insert smaller district) Conservancy District will become full and equal freeholders of the _____ (insert larger district) Conservancy District and be subject to and pay the same special benefits taxes and user charges generally charged by the (insert larger district) Conservancy District.

5. An election of the freeholders of the (insert smaller district) Conservancy District is set for the day of _____, _____, from 9:00 a.m. to 9:00 p.m., at the following location(s): _____.

6. The question presented for the election is whether the _____ (insert smaller district) Conservancy District should be dissolved, and whether the _____ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the _____ (insert smaller district) Conservancy District.

7. A majority of the votes cast at the election will determine the question of whether the _____ (insert smaller district) Conservancy District should be dissolved, and whether the _____ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the _____ (insert smaller district) Conservancy District.

8. As a freeholder of the _____ (insert smaller district) Conservancy District, you are entitled to and encouraged to vote at the election.

/ss/ Board of Directors, _____
(insert smaller district) Conservancy District

(f) If the board of directors of the smaller district fails to hold the election as required by this chapter, the county auditor of the county in which the smaller district's petition was filed shall:

- (1) conduct the election as required by this chapter; and
- (2) bill the board of directors of the smaller district for the county auditor's costs incurred for the election.

(g) The board of directors of the smaller district shall promptly pay a bill submitted to the smaller district under subsection (f).

Sec. 7. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall prepare and furnish ballots in sufficient number in the following form:

"Shall the _____ (insert smaller district)

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Conservancy District be dissolved and its operations, obligations, and assets be assumed by the _____ (insert larger district) Conservancy District?

☐ Yes ☐ No"

Sec. 8. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall do the following:

- (1) Appoint an assistant secretary.
- (2) Provide a voting list at each voting place.

Sec. 9. (a) Before the voting begins under this chapter, the board of directors of the smaller district shall appoint three (3) freeholders of the district as clerks to conduct the dissolution and assumption election.

(b) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the district secretary.

(c) If:

- (1) a clerk finds a freeholder's name is omitted from the list; and
- (2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the freeholder may vote.

Sec. 10. (a) After an election is held under this chapter, the assistant secretary of the smaller district shall do the following:

- (1) Keep the ballots safe and secure until the end of the voting period.
- (2) At the end of the voting period, present all ballots cast to the three (3) clerks.
- (3) Record the election results in the records of the smaller district.
- (4) Certify the results of the election to the county auditor and the circuit court having supervisory jurisdiction over the smaller district as promptly as possible.

(b) The clerks of the smaller district shall do the following:

- (1) Count the ballots.
- (2) Report the results of the election to the secretary in writing over the signature of each clerk.

Sec. 11. In an election held under this chapter, a majority of all votes cast by the freeholders of the smaller district determine the question of the dissolution of the smaller district and the larger district's assumption of the smaller district's operations, obligations, and assets.

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Sec. 12. The costs of a smaller district's election held under this chapter shall be paid by the smaller district.

Sec. 13. (a) In an election held under this chapter, if a majority of the freeholders of the smaller district votes to dissolve the smaller district, not later than sixty (60) days after the election, as the final action of the board of directors of the smaller district, the board shall:

- (1) make a full and final accounting to the circuit court having supervisory jurisdiction over the smaller district; and
- (2) file all records of the smaller district with the court.

(b) If the smaller district's board of directors fails to timely comply with subsection (a), the circuit court having supervisory jurisdiction over the smaller district shall order the board to comply or suffer a finding of contempt of court.

(c) The larger district shall take custody and control of the smaller district's operations, obligations, and assets on the earlier of:

- (1) the date the smaller district's board of directors complies with subsection (a)(1); or
- (2) the sixtieth day after the election.

(d) The larger district is directly responsible for payment of the smaller district's bonds or notes outstanding upon the larger district taking custody and control of the smaller district's operations, obligations, and assets.

(e) When the smaller district's board of directors complies with subsection (a), the circuit court shall issue an order:

- (1) dissolving the smaller district; and
- (2) discharging the board of directors of the smaller district.

SECTION 8. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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